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Agenda item 7

Resolution adopted by the Human Rights Council on 23 March 2018

37/37. Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the relevant rules and principles of international law, including international humanitarian law and human rights law, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to the Occupied Palestinian Territory, including East Jerusalem,

Recalling also the Universal Declaration of Human Rights and the other human rights covenants, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child,

Recalling further the statement of 15 July 1999 and the declarations adopted on 5 December 2001 and 17 December 2014 at the Conference of High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, at which the High Contracting Parties reaffirmed, inter alia, their commitment to uphold their obligation to ensure respect for the Convention in the Occupied Palestinian Territory, including East Jerusalem,

Recalling its relevant resolutions, including resolutions S-9/1 of 12 January 2009, 19/17 of 22 March 2012 and S-21/1 of 23 July 2014,

Recalling also the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory,

Expressing its appreciation to the independent commission of inquiry on the 2014 Gaza conflict, and all other relevant United Nations mechanisms, as well as the treaty bodies and other United Nations bodies, for their reports,

Recognizing the work of Palestinian, Israeli and international civil society actors and human rights defenders in documenting and countering violations of international law in the Occupied Palestinian Territory, including East Jerusalem,

Affirming the obligation of all parties to respect international humanitarian law and international human rights law,

Emphasizing the importance of the safety and well-being of all civilians and reaffirming the obligation to ensure the protection of civilians in armed conflict,

Gravely concerned by reports regarding serious human rights violations and grave breaches of international humanitarian law, including possible war crimes, including the findings of the United Nations Fact-Finding Mission on the Gaza Conflict, of the independent international fact-finding mission to investigate the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, of the independent commission of inquiry on the 2014 Gaza conflict, and of the boards of inquiry convened by the Secretary-General,

Condemning all violations of human rights and of international humanitarian law, and appalled at the widespread and unprecedented levels of destruction, death and human suffering caused in the Occupied Palestinian Territory, including East Jerusalem,

Stressing the urgency of achieving without delay an end to the Israeli occupation that began in 1967, and affirming that this is necessary in order to uphold human rights and international law,

Deploring the non-cooperation by Israel with all Human Rights Council fact-finding missions and the independent commission of inquiry on the 2014 Gaza conflict, and the refusal to grant access to and cooperate with international human rights bodies and a number of United Nations special procedures seeking to investigate alleged violations of international law in the Occupied Palestinian Territory, including East Jerusalem,

Regretting the lack of implementation of the recommendations contained in the reports of the independent commission of inquiry on the 2014 Gaza conflict,[1] the independent international fact-finding mission to investigate the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem,[2] and the United Nations Fact-Finding Mission on the Gaza Conflict,[3] which follows a pattern of lack of implementation of recommendations made by United Nations mechanisms and bodies,

Alarmed that long-standing systemic impunity for international law violations has allowed for the recurrence of grave violations without consequence, and stressing the need to ensure accountability for all violations of international humanitarian law and international human rights law in order to end impunity, ensure justice, deter further violations, protect civilians and promote peace,

Regretting the lack of progress in the conduct of domestic investigations in accordance with international law standards, and aware of the existence of numerous legal, procedural and practical obstacles in the Israeli civil and criminal legal system contributing to the denial of access to justice for Palestinian victims and of their right to an effective judicial remedy,

Emphasizing the need for States to investigate and prosecute grave breaches of the Geneva Conventions of 1949 and other serious violations of international humanitarian law, to end impunity, to uphold their obligations to ensure respect and to promote international accountability,

Noting the accession by the State of Palestine on 2 January 2015 to the Rome Statute of the International Criminal Court,

1. *Welcomes* the report of the independent commission of inquiry on the 2014 Gaza conflict;[1]

2. *Calls upon* all duty bearers and United Nations bodies to pursue the implementation of the recommendations contained in the reports of the independent commission of inquiry on the 2014 Gaza conflict,[1] the independent international fact-finding mission to investigate the implications of Israeli settlements on the civil, political,

[1] A/HRC/29/52.
[2] A/HRC/22/63.
[3] A/HRC/12/48.

economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem,[2] and the United Nations Fact-Finding Mission on the Gaza Conflict,[3] in accordance with their respective mandates;

3. *Notes* the importance of the work of the independent commission of inquiry on the 2014 Gaza conflict, the independent international fact-finding mission to investigate the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, and the United Nations Fact-Finding Mission on the Gaza Conflict, and of the information collected regarding grave violations in support of future accountability efforts, in particular information on alleged perpetrators of violations of international law;

4. *Emphasizes* the need to ensure that all those responsible for violations of international humanitarian law and international human rights law are held to account through appropriate, fair and independent national or international criminal justice mechanisms, and to ensure the provision of effective remedy to all victims, including full reparations, and stresses the need to pursue practical steps towards these goals to ensure justice for all victims and to contribute to the prevention of future violations;

5. *Stresses* that all efforts to end the Israeli-Palestinian conflict should be grounded in respect for international humanitarian law and international human rights law and should ensure credible and comprehensive accountability for all violations of international law in order to bring about sustainable peace;

6. *Calls upon* the parties concerned to cooperate fully with the preliminary examination of the International Criminal Court and with any subsequent investigation that may be opened;

7. *Denounces* all acts of intimidation, threats and delegitimization directed at civil society actors and human rights defenders involved in documenting and countering violations of international law and impunity in the Occupied Palestinian Territory, including East Jerusalem, and calls upon all States to ensure their protection;

8. *Calls upon* all States to promote compliance with international law and all High Contracting Parties to the Fourth Geneva Convention to respect, and to ensure respect for, international humanitarian law in the Occupied Palestinian Territory, including East Jerusalem, in accordance with article 1 common to the Geneva Conventions, and to fulfil their obligations under articles 146, 147 and 148 of the said Convention with regard to penal sanctions, grave breaches and the responsibilities of the High Contracting Parties, including by ensuring that their public authorities and private entities do not become involved in internationally unlawful conduct, inter alia, the provision of arms to end users that could use the arms to commit or facilitate serious violations of international humanitarian and/or human rights law;

9. *Recommends* that the General Assembly remain apprised of the matter until it is satisfied that appropriate action with regard to implementing the recommendations made by the United Nations Fact-Finding Mission on the Gaza Conflict in its report has been or is being taken appropriately at the national or international levels to ensure justice for victims and accountability for perpetrators;

10. *Requests* the United Nations High Commissioner for Human Rights to report on the implementation of the present resolution to the Human Rights Council at its fortieth session;

11. *Decides* to remain seized of the matter.

56th meeting
23 March 2018

[Adopted by a recorded vote of 27 to 4, with 15 abstentions. The voting was as follows:

In favour:

Afghanistan, Angola, Belgium, Brazil, Burundi, Chile, China, Côte d'Ivoire, Cuba, Ecuador, Egypt, Iraq, Kyrgyzstan, Nepal, Nigeria, Pakistan, Peru, Philippines, Qatar, Saudi Arabia, Senegal, Slovenia, South Africa,

Switzerland, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

Australia, Togo, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining:

Croatia, Democratic Republic of the Congo, Ethiopia, Georgia, Germany, Hungary, Japan, Kenya, Mexico, Panama, Republic of Korea, Rwanda, Slovakia, Spain, Ukraine]